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YEAR-END REVIEW OF FOREIGN ECONOMIC LEGISLATION

Summary

The Reagan administration achieved many of its legislative goals in 1983, but fell short of equaling the record of the 97th Congress, when it registered dramatic successes while tossing the Democratic Party into confusion. Many alliances of the previous Congress crumbled, as members reassessed party and individual goals in anticipation of 1984 election campaigns. Politics will play an even more important role in congressional deliberations during the coming year, as voters continue evaluating the Reagan record and the Democratic Party attempts to restore its traditional coalitions to regain control of the White House and Congress.

Progress on foreign economic legislation was hampered both by shifting political alliances and by the difficult decisions facing lawmakers in resolving conflicts between policy goals and private interests. Eximbank funding, revisions of the Export Administration Act and International Monetary Fund (IMF) replenishment measures all stirred controversy in Congress as the administration sought to further the ideological course it began in 1981. Some protectionist measures made significant progress during the session, particularly the domestic content proposal backed by the United Auto Workers (UAW) union.

Power Shifts in Congress

In its first two years in office, the Reagan administration achieved what most observers feel was the most surprising series of legislative victories in recent memory. Bolstered by the support of southern Democratic

conservatives and the euphoria accompanying the 1980 electoral sweep, administration leaders posted a number of victories on social spending cuts, defense program increases and other conservative Republican items. For the first two years, the Democratic Party was disorganized and was unable to respond to what appeared to be a legislative steamroller driven by Ronald Reagan.

The tide began to turn with the 1982 elections. Democrats made a strong showing, picking up several seats in the House and demonstrating that issues upon which the party traditionally has capitalized could still be damaging to the GOP. The Democratic performance forced many congressmen, particularly Republicans, to reconsider party allegiance and opt for the more pragmatic goal of winning reelection in 1984. With 13 Republican senatorial incumbents up for election, it soon became clear that the dramatic gains of 1980 could be lost if the president's goals were pursued too stridently.

These developments influenced foreign economic policy debates in Congress and affected issues between the United States and Japan. With the Republican working majorities of the previous Congress weakened, individual legislators were forced to turn their attention to the domestic implications of foreign policy disputes, with one eye always on 1984. Promoting bills simply on their international merits became more difficult. The administration, although aware of its reduced strength in Congress, was determined nevertheless to continue policies initiated during the first two years aimed at reducing social spending while increasing defense expenditures. Its agenda was clear, but its ability to further it was significantly reduced.

The Democratic Party, led by House Speaker Thomas P. (Tip) O'Neill, used legislative issues pending before Congress to reassert positions that had seemingly been discredited just a few years earlier. Speaker O'Neill emphasized the "fairness" issue and promoted legislation which, even though doomed in the Republican-controlled Senate, would set the stage for the 1984 elections. In the process, several foreign policy and economic measures became inextricably linked with purely domestic political concerns. Aware of O'Neill's renewed authority in the House, President Reagan emphasized compromise and bipartisanship when several of his key legislative proposals faced crucial votes, including the MX missile, the Lebanon War Powers Resolution and additional U.S. contributions to the International Monetary Fund. In each case, the administration appealed to broader concerns to secure passage of the bills. Without functional majorities in both houses, President Reagan had to rely more on the prestige of the presidency to persuade legislators to support his proposals.

Another significant trend in Congress was the changing authority of congressional committees over international trade and economic matters. The Energy and Commmerce Committee, chaired by Rep. John Dingell (D, Mich.), continued to assert jurisdiction over local content legislation and related bills at the expense of the House Ways and Means Committee and particularly its International Trade Subcommittee, chaired by Rep. Sam Gibbons (D, Fla.). The House Banking Committee also played a more prominent role in international monetary legislation due to its role in the IMF funding bill.

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The House Foreign Affairs Committee also is likely to see changes in the coming year due to the death of its chairman, Rep. Clement Zablocki (D, Wisc.). Zablocki allowed his subcommittee chairmen flexibility in initiating action on a variety of issues and exerted his authority at the committee level. His likely successor, Rep. Dante Fascell (D, Fla.), probably will assert more authority over subcommittee agendas. The committee, often a lackluster body in comparison with its glamorous Senate counterpart, could become more dynamic under Fascell, who generally takes a conservative view in foreign policy issues.

Specific Developments

Reciprocity - What was once the hottest trade issue in Congress took a back seat to other concerns in 1983. Sen. John Danforth's (R, Mo.) reciprocity bill, S. 144, was approved in the Senate and attached to a measure repealing withholding on interest and dividends. Lack of House support for the reciprocity concept forced Senate conferees to drop the provisions from the withholding bill, but not before the House promised to hold hearings on the subject.

Those developments ended the prospects for administration-backed changes in existing trade laws to expand the authority of the U. S. Trade Representative to negotiate in new areas, including services trade and reciprocal market access. The House Ways and Means Committee reported H.R. 1571 on September 27, which would expand the executive's retaliatory authority on questions of reciprocal market access, but the bill did not reach the floor before Congress adjourned. Another reciprocity bill, H.R. 2848, was reported unfavorably by the committee prior to the end of the session.

Reciprocity was the victim of a trend which emphasized more industry-specific bills as election year fevers rose. The Danforth proposal -- which first emerged in response to criticism of Japan's closed markets -- lost momentum as administration-supported changes transformed the bill from a potentially protectionist vehicle into moderate legislation aimed at addressing changes in the international trade arena. As the agenda in Congress became more politicized, support for broader measures faded while specific "solutions" to industry problems became more popular. This trend, which holds more potential for enactment of protectionist legislation, is likely to continue in 1984.

Export Administration Act - One of the most controversial and complicated trade bills of the year was the extension of the executive's authority to control exports of sensitive technology to other countries. The Reagan administration, obsessed with the leakage of sophisticated technology to the Soviet Union, sought strengthened controls while the American business community, concerned with the possible loss of sales and U.S. credibility among overseas buyers as a reliable supplier, sought relaxed controls. Japan was caught in the issue due to its economic ties with the Soviet Union and its reputation among many U.S. officials as a security sieve.

Alexander Towbridge, president of the American Manufacturers Association, set the tone for industry positions in congressional hearings early in the year. Towbridge urged limiting executive discretionary authority in instituting controls on exports already under contract or involving

extraterritoriality. He claimed that many previous reforms, such as mandated presidential-congressional consultations, have been ignored in practice and that American businesses were losing customers as a result. To opponents of strengthened controls, the most dramatic demonstration of capricious executive action was the administration's attempt to halt previously contracted shipments of American products to European buyers for ultimate use in constructing the Siberian gas pipeline.

The House approved a bill on October 27 (H.R. 3231) to modify existing controls and allow exporters to forego licensing for shipments to Western European nations and Japan. The Senate took a stricter line, as evidenced by S. 969, sponsored by Sen. Jake Garn (R, Utah). The Garn bill addressed criticism that the Department of Commerce administers the existing law ineffectively and is constrained by inherent bureaucratic conflicts in both promoting and restricting exports to other countries. The legislation, which would have tightened controls while establishing a separate Office of Strategic Trade, was approved by the Banking Committee on May 23 but never reached the floor for a vote.

The Senate's inability to produce a measure which could be reconciled with H.R. 3231 necessitated congressional approval of legislation to temporarily extend the president's export control powers, which otherwise would have expired on September 30. Two extensions were approved, the first just before the scheduled expiration date and the second in the closing hours of the session. The temporary controls are authorized until February 29, 1984, although it is uncertain that both houses will be able to agree upon a compromise bill before then.

A side issue relevant to U.S.-Japan relations that delayed the progress of the Export Administation Act was the question of Alaskan oil exports. The previous bill had outlawed exports of Alaskan oil under certain conditions. Arguing that similar prohibitions existed in other active statutes, the administration sought a bill free of the ban. Sen. Frank Murkowski (R, Alaska) at one point threatened to filibuster against the act if it contained a clause banning Alaskan oil exports. Maritime interests, fearful that the move was the first of a series to eliminate all bans on Alaskan oil exports, fought the deletion of the prohibition, insisting that such provisions were necessary to protect American consumers and provide energy security. It is unlikely that the drive to remove all such prohibitions from the books during the coming year will gain much ground.

Trade Adjustment Assistance - The administration was forced to concede to congressional pressure to extend the Trade Adjustment Assistance program because of the bill's political implications. Initially opposed to continuing the program, the White House accepted a two-year extension (PL 98-120) which was cleared on September 30. The original House version, which called for an expanded assistance effort, was one of a series of measures that the Democratic-controlled House said demonstrated the issue of fairness and the need for federal spending during periods of high unemployment.

Department of Trade - Although Commerce Secretary Malcolm Baldrige denied such suggestions, the Department of Trade bill promoted by the administration in 1983 smacked of a "do as Japan does" approach and sought to rationalize U.S. trade policy by reorganizing the federal bureaucracy. With

one eye on Japan's Ministry of International Trade and Industry (MITI), the bill's supporters suggested that by consolidating its trade bureaucracy, the United States could increase international competitiveness and enforce existing trade laws more effectively.

The chief trade reorganization bill was S. 121, sponsored by Sen. William Roth (R, Delaware). Supported by the administration, it would combine the Office of the U.S. Trade Representative with trade-related offices in the Department of Commerce into a separate Department of International Trade and Industry (DITI). The bill was reported by the Senate Government Affairs Committee on October 18, but did not reach the floor for a vote. Progress of counterpart bills in the House was delayed by Democratic proposals to include vague industrial policy provisions in the legislation.

Future prospects for DITI legislation are unclear. The bill -- minus the industrial policy sections -- still has administration support, but it could get lost in election year politics, particularly if industrial policy proponents try to hold their ground and institutionalize their concepts.

Local content - The House of Representatives approved H.R. 1234, the local content bill sponsored by Rep. Richard Ottinger (D, N.Y.), by a 219-199 vote on November 3. The vote came just two days after MITI announced an extension of "voluntary" restraints on Japan's automobile exports to the United States for a fourth year beginning in April 1984. Local content is the most important legislative item pending in Congress for the United Auto Workers. The UAW made the bill the sole standard for candidate endorsements in the 1982 elections. Together with Ford Motor Co. and Chrysler Corp., the union lobbied heavily to secure House passage before the end of the year to allow as much time as possible to force Senate consideration of the bill.

Conventional wisdom contends that the Republican-controlled Senate will not pass the bill in 1984 and that, even if it does, the president most certainly will veto it. However, several factors could aid this initiative in the Senate. Thirteen Republicans face reelection in 1984. Democratic support for local content is strong and all but one of the party's presidential candidates has endorsed the concept in one form or another. Finally, the influence of Majority Leader Howard Baker (R, Tenn.) could diminish through the year as his retirement nears. Given these circumstances, it is highly possible that local content supporters will be able to bring the bill to the floor in some fashion before the end of the year. Proponents of S. 707 -- the Senate counterpart of H.R. 1234 -- probably would like to see the bill come up toward the end of the session in October, just before the November congressional and presidential elections, to maximize pressure on the administration and on undecided Senate members.

Trade remedies - Consideration began during the year of various proposals to amend existing trade statutes to facilitate import relief procedures. Supporters of revised standards offered several criticisms of American trade relief laws and processes, among them the following:

- Standards for proving injury are too stiff.
- The executive branch has too much discretionary authority in determining appropriate responses to unfair foreign trade practices.

- The cost of filing import relief petitions is prohibitive.
- Procedures for securing relief are too time consuming. By the time solutions are implemented, irreparable damage already has been done to the affected domestic industry.
- Existing laws do not address industrial targeting practices.

While supporters of current practices admit that administrative procedures could be expedited, they nevertheless rejected proposals to liberalize the relief provisions of the 1974 Trade Act, fearing that standards for establishing injury could become so loose as to be meaningless. Virtually any complainant, they claim, could qualify for relief should the Trade Act be amended further. Also rejected by administration officials at hearings held early in the year was the "threat of injury" concept as grounds for import relief. "Threat of injury," some contended, could be confused with normal marketplace competition and could easily become a severely protectionist mechanism if codified.

DISC Replacement - The White House introduced proposals in 1983 to replace the Domestic International Sales Corporation (DISC), a controversial corporate device which attempts to stimulate American exports by allowing deferral of taxes on export income. DISC has been denounced by the General Agreement on Tariffs and Trade (GATT) as an illegal subsidy under Article 16 of the agreement.

The Cabinet Council on Commerce and Trade approved a DISC substitute on March 2 which would allow the establishment of partially tax-exempt corporations based abroad through which export sales could be made. Income from export sales would be allocated to a Foreign Sales Corporation (FSC) and a related American company using "arm's length" procedures described in the Internal Revenue Code, or one of two alternative formulas proposed by the administration. The plan was not well received by the business community, which criticized it as a potentially burdensome and costly alternative to the DISC. The most attractive feature of the DISC -- immediate earnings potential through exempting income from taxes -- would be diluted under the proposal. Two other bills sought revisions of the DISC in 1983. S. 28, the Export Sales Corporation Act, was introduced by Sen. David Boren (D, Okla.), while the DISC Revision Act, H.R. 1673, was offered by Rep. Guy Vander Jagt (R, Mich.). Neither bill made significant progress during the session.

IMF Funding - One of the most controversial measures before Congress was the authorization to increase the U.S. contribution to the International Monetary Fund by $8.4 billion to help offset credit problems facing several developing countries. The measure's opponents decried the bill as a bailout for big banks, overextended because of huge loans to poor credit risks. Supporters countered by emphasizing the importance of American commitments to international lending and development institutions.

The IMF funding bill, approved on November 18, was an example of the administration's decision to rely on the prestige of the presidency to offset the loss of support that had protected it in the previous two years. Bipartisan opposition to the bill was strong. Although a back-door approach ultimately was necessary to get the bill through Congress, the administration

was able to secure passage through moral suasion in spite of divisions within its own party and objections of key Democratic leaders. In addition to IMF funding, the bill extended Export-Import Bank authorizations until September 30, 1986. It also reauthorized the Asian Development Bank and the Inter-American Development Bank, and extended the Defense Production Act until March 30, 1984.

Outlook for 1984

The prospects of several pending bills will be clouded during 1984 as political maneuvering becomes more overt. The presidential primaries and subsequent November elections will abbreviate the next session of Congress, which is not scheduled to get under way until January 23. Four one-week to ten-day recesses are scheduled in addition to two month-long breaks for the national conventions. Serious consideration of important legislation will thus be hampered and the possibilities of intense debate over emotional political issues such as local content legislation will be enhanced.

Although some indicators suggest improvement in the economy, domestic economic issues will play an important role in the election process as Democrats attack the Republican record on deficits, defense spending and social priorities. The Democratic political strategy will be to demonstrate concern for its traditional constituencies by taking "substantive" actions in Congress. Of these, the most dramatic are short-term propositions promising immediate relief, such as local content bills or certain types of domestic spending measures. Serious foreign policy issues, including the American military role in Lebanon, are likely to add to the emotional atmosphere as campaigns accelerate.

Given such a climate, discipline will be required of the nation's leaders to focus attention on existing economic and trade issues between the United States and Japan. Reagan administration policies toward Japan are certain to come under fire, especially as negotiations over Japanese agricultural quotas reach a climax in the early spring. The temptation to "bash Japan" will be great in 1984 and is likely to manifest itself in congressional deliberations.

The local content bill now before the Senate Commerce, Science and Transportation Committee illustrates the types of pressures facing lawmakers and the administration. Aimed as much at the world car strategy of General Motors as at Japanese imports, the bill nevertheless is perceived as a device to force Japanese investment in a market from which they have derived considerable benefit. The appeal of the proposal -- simplistic as it may be -- is great: If they want to sell the cars here, they should build them here.

The emphasis in this dispute on "fairness" is consistent with the pattern established early in the year by House Speaker O'Neill. Local content is no longer seen as a bill which would inflate prices on all automotive products in the United States, but rather as a legislative tool to enforce "fairness". With elections approaching, it will be difficult to resist supporting such a bill.

This cycle is familiar to most observers of the U.S. electoral process. Using foreign scapegoats during campaign seasons is not unique to this country

or this election year. However, continued perceptions of economic difficulties have brought legislators closer to endorsing a range of protectionist measures than they have been in recent years. Further, as each candidate jumps on a local content bandwagon, it becomes increasingly difficult to snuff the fires out once and for all. Domestic content has become an institutional creed for one of the major parties in 1984. Even if that party does not regain control of the White House and Congress in November, candidates will have committed themselves to the concept and their supporters will not let them forget it. As support for the concept grows, pressure on its opponents can only increase.

There will be any number of local content debates in Congress during the coming year. Steel and electronics are only two of dozens of industries in which legislative proposals have been discussed. These remedies can only contribute to increased tensions between the United States and Japan. Whether the country can escape them remains to be seen.

For further information, contact Michael Chinworth.

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Table 1: 98th Congress, First Session

	House	Senate	Total
Days in session	146	150	--
Public bills enacted	114	104	215
Private bills enacted	6	--	6
Total measures passed	611	590	1,201
Total measures reported	497	570	1,067
Measures pending on calendar	105	155	--
Total measures introduced	5,642	2,795	8,437
Quorum calls	35	18	--
Yea-nay votes	297	381	--
Recorded votes	201	--	--
Bills vetoed	4	3	7
Vetoes overridden	1	1	--

Table 2: Selected International Legislation Enacted

Subject	Date Introduced	Date Approved House	Date Approved Senate	Public Law Date	Public Law Number
Extension of 1950 Defense Production Act	3/16	3/22	3/23	3/29	98-12
Supplemental aid to Lebanon	3/1	6/2	5/20	6/27	98-43
Supplemental appropriations (foreign aid, including Lebanon)	5/18	5/25	6/16	6/30	98-63
Interest/dividend withholding repeal; Caribbean Basin Initiative	5/11	5/17	6/16	8/5	98-67
KAL 007 resolution	9/13	9/14	9/15	9/28	98-98
Extension of Export Administration Act	9/22	9/27	9/30	10/1	98-108
Radio Marti funds	2/24	9/29	9/13	10/4	98-111
U.S. forces in Lebanon	9/12	9/28	9/29	10/12	98-119
Trade Adjustment Assistance; Int'l. Coffee Agreement	8/4	9/27	9/30	10/12	98-120
Continuing Resolution (including Grenada/El Salvador aid)	11/9	11/10	11/11	11/14	98-151
State Department authorization	5/5	6/9	10/20	11/22	98-164
FY 84 supplemental appropriations (IMF/Eximbank)	9/22	10/5	10/27	11/30	98-181
Second extension of Export Administration Act	11/18	11/18	11/18	12/5	98-207
DOD appropriations	10/20	11/2	11/8	12/8	98-212